

# SENATE BILL REPORT

## SB 5149

---

---

As Reported By Senate Committee On:  
Health & Long-Term Care, February 28, 2005

**Title:** An act relating to prescription drug marketing and disclosure.

**Brief Description:** Requiring the disclosure of gifts made by pharmaceutical manufacturers to persons who prescribe prescription drugs.

**Sponsors:** Senators Kohl-Welles, Thibaudeau, Keiser, Kline and Spanel.

**Brief History:**

**Committee Activity:** Health & Long-Term Care: 2/3/05, 2/28/05 [DPS-WM, DNP, w/oRec].

---

### SENATE COMMITTEE ON HEALTH & LONG-TERM CARE

**Majority Report:** That Substitute Senate Bill No. 5149 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Keiser, Chair; Thibaudeau, Vice Chair; Franklin, Kastama, Kline and Poulsen.

**Minority Report:** Do not pass.

Signed by Senator Johnson.

**Minority Report:** That it be referred without recommendation. Signed by Senators Benson, Brandland and Parlette.

**Staff:** Jonathan Seib (786-7427)

**Background:** Influenced by price increases, greater utilization, and changes in the types of prescriptions used, national expenditures for prescription drugs have been one of the fastest growing components of health care spending in recent years, increasing at double-digit rates in each of the past eight years. Although they remain a relatively small proportion of total health care expenditures, the annual amount spent in the United States for prescription drugs has quadrupled since 1990.

There is concern that some of the increased expenditures may be due to inappropriate utilization driven by drug company marketing, particularly to physicians and other prescribers, and that consumers are generally unaware of the benefits received by prescribers from drug manufacturers.

**Summary of Substitute Bill:** Beginning January 1, 2007, every pharmaceutical manufacturing company must annually disclose to the Office of the Attorney General the value, nature, and purpose of any gift, fee or payment made to any: (1) person or entity authorized to prescribe or dispense prescription drugs; (2) hospital; (3) health benefit plan administrator; (4) group purchasing organization; (5) pharmacy benefit manager; or (6) other

entity authorized to purchase prescription drugs in this state. The disclosure must also include the names of the persons to whom the gift, fee, or payment was made.

The Office of the Attorney General must report annually to the Legislature and the Governor on the disclosures made, but is to keep confidential all trade secrets.

Drug samples for distribution to patients, anything valued at less than \$100, and contributions in support of continuing education activities are not required to be disclosed.

The Attorney General may impose a civil penalty of not more than \$10,000 per violation on any manufacturer that fails to disclose as required by this act.

**Substitute Bill Compared to Original Bill:** The substitute bill: clarifies the definition of "pharmaceutical manufacturing company;" removes the requirement that the attorney general keep confidential the names of those to whom gifts are given; increases the exemption from anything valued at less than \$25 to anything valued at less than \$100; and adds the exemption for contributions in support of continuing education activities.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** Prescription drugs continue to be a major contributor to escalating health-care costs. This bill is an effort to get at one of the drivers of increasing expenditures on pharmaceuticals: the amount of time and money the pharmaceutical companies spend marketing their products directly to physicians. The bill addresses the concern that such marketing prompts overutilization of drugs and the prescribing of drugs that are not the most cost effective. This bill sends the right message to those with a fiduciary responsibility for prescribing drugs. Research shows a strong link between receipt of such gifts and the prescribing of certain medications.

**Testimony Against:** This bill singles out the pharmaceutical industry to require disclosure and reporting of trade secret information that is protected by federal law. Also, it is unnecessary for the state to address this issue, because the industry and the federal government are already developing standards regarding proper and improper marketing of pharmaceuticals. This bill would create significant administrative expenses that would be counterproductive to the goal of reducing the cost of prescription drugs.

**Who Testified:** PRO: Senator Jeanne Kohl-Welles, prime sponsor; Eleanor Owen; Lauren Moughon, AARP Washington; Dr. Art Zoloth, Northwest Pharmacy Services.

CON: Cliff Webster, Pharmaceutical Research and Manufacturers of America. OTHER: Ken Bertrand, Group Health.